IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

CONTEMPT PETITION NO. 371 OF 2004
IN
WRIT PETITION NO. 6614 OF 2003

Shree.Sayyed Safdar Ali
Mumtaz Ali ...Petitioner

Vs.

Shri.A.U.Shaikh and ors. ...Respondents

....

Mr.Suresh S.Pakale for Petitioner
Mr.Raju Moray with V.S.Talkute for Respondent No.2

....

CORAM : B.H.MARLAPALLE,J.

DATE : JANUARY 25,2005

P.C.:

1. Heard Mr.Pakale, the learned counsel for the petitioner who was petitioner no.17 in Writ Petition NO. 6614 of 2003. In the said petition, the Division Bench of this Court by order dated 6th October 2003 issued notice to the respondents returnable in the last week of November, 2003 and also passed the following interlocutory order granting protection to the employment of the petitioners:

. In the meanwhile the petitioners will not be suspended and/or terminated from service of the respondents and the respondents will not interfere with service conditions only on the ground

that the petitioners have approached this court by filing present petition"

2. It is alleged by the contempt petitioner that with malafide intention he was terminated from service with effect from 8.6.2004 for no good reasons despite the order passed by this Court as quoted hereinabove. Advocate’s notice was issued to present respondent nos.1 and 2. It appears that respondent no.1 is the Chairman of the Shad Adam Shaikh Trust and Respondent no.2 is the Principal of Shad Adam Shaikh Polytechnic Pharmacy College at Bhiwandi. The respondent no.2 replied the legal notice on 15.7.2004 and informed that the present petitioner was engaged through a contractor by name M/s. Jung Consultancy and was not the employee of the said College or the Trust. The learned counsel for the present petitioner submitted that this order of termination as well as the reply to the legal notice is contemptuous and has violated the order passed by this Court on 6th October, 2003 in Writ Petition No. 6614 of 2003.

3. The papers of W.P.No. 6614 of 2003 indicate that the present respondent nos.1 and 2 were not impleaded as respondents in the said petition initially and they have been added as respondent nos.9 and 10 on 8.12.2004. It is thus, clear that the order passed

by this Court on 6.10.2003 was not binding on the present respondents when the alleged termination order was issued and therefore, they cannot be hauled up for contempt.

4. It is also noted that in W.P.No. 6614 of 2003 an order has been passed by the Division Bench on 29.11.2004 and by consent the dispute between the parties has been referred to mediation process. It is necessary to ensure that no prejudice is caused to the mediation process and the same must continue in a healthy and trustworthy atmosphere.

5. In the circumstances, there is no case made out to take cognizance of the alleged contempt and therefore, the contempt petition is rejected summarily.

[B.H.MARLAPALLE,J.]